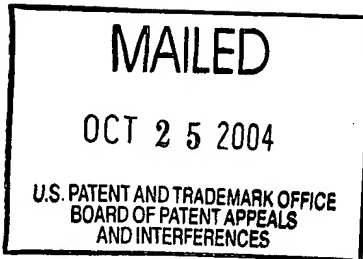


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte ROD D. LAWING
and
JOAN E. MCKINLEY

Application No. 10/076,729

ORDER RETURNING UNDOCKETED APPEAL

This application was received at the Board of Patent Appeals and Interferences on September 13, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

On November 4, 2003, appellants filed a Notice of Appeal (Paper No. 12) "finally rejecting Claims 1-43, all of which are pending in this case." The "Status of Claims" section located on page 2 of the Appeal Brief filed January 5, 2004

(Paper No. 13) stated that "[c]laims 1-43 stand rejected pursuant to a final Office Action mailed August 8, 2003." The Examiner's Answer mailed March 24, 2004 (Paper No. 14) noted on page 2 that "[t]he statement of the status of the claims contained in the brief is correct." However, the "Grounds of Rejection" in the Examiner's Answer are listed as follows:

1. Claims 1-18 and 20-29, and 31-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Davis et al (Hereafter, Davis), U.S. Pat No. 5,742,829; and

2. Claims 19, 30 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al (Hereafter, Davis), U.S. Pat No. 5,742,829.

It should be noted that the Examiner's Answer fails to include claims 39-43 in a rejection. Correction is required.

In addition, on August 11, 2003, an Information Disclosure Statement (IDS) was filed (Paper No. 10). It is unclear whether "Lawing et al., U.S. Patent Publication No. 2002/0112150 A1, "Method and System for Central Management of a Computer Network, Patent and Trademark Office, filed 02/15/2002" was considered since the examiner did not initial the citation if

Application 10/076,729

it was considered or draw a line through the citation if it was not in conformance or not considered. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1. for a determination regarding the status of claims 39-43;
2. for consideration of "Lawing et al., U.S. Patent Publication No. 2002/0112150 A1, "Method and System for Central Management of a Computer Network, Patent and Trademark Office, filed 02/15/2002" appearing in the IDS filed August 11, 2003 (Paper No. 10);
3. for written notification to appellants regarding the action taken; and
4. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE SHAW
Program and Resource Administrator
(703) 308-9797

Application 10/076,729

cc: Baker Botts L.L.P.
2001 Ross Avenue
Suite 600
Dallas, TX 75201-2980

ds/psb/lc
RA050009